

DATE: May 27, 1986

TO: Jack Van Cleave, Director of Planning
FROM: City Attorney
SUBJECT: Conflict of Interest Procedure

I have personally reviewed your March 28, 1986 memorandum outlining steps to avoid the appearance of a conflict of interest arising from a dating situation.

The efforts outlined certainly curtail the proscribed actions listed in Section 200 of your department's conflict of interest code. However, a cautionary note is appropriate regarding the breadth of regulation of personal conduct. The thrust of local codes that were required by the Political Reform Act (California Government Code section 87300) is aimed at financial interests and not personal interests.

We stated in Carmel (p.269) that "there must be a balancing of interests between the government's need to expose or minimize possible conflicts of interest on the one hand and the right to maintain privacy in one's personal financial affairs while seeking or holding public office on the other"

We concluded that "... no overriding necessity has been established which would justify sustaining a statute having the broad sweep of the one now before us, which, as stated, would intrude alike into the relevant and the irrelevant private financial affairs of the numerous public officials and employees covered by the statute and is not limited to only such holdings as might be affected by the duties or functions of a particular office." (Id., p. 272.)

County of Nevada v. MacMillen,
11 Cal.3d 666, 671 (1974),
quoting City of Carmel-by-the-Sea
v. Young, 2 Cal.3d 259, 272 (1969)
¶Emphasis added.σ

This balance of public and personal concerns is the hallmark of a free society which stands undiminished by the conflict of interest laws. While we believe the outlined agreement is within that balance, purely personal conduct must remain unfettered.

John W. Witt

City Attorney

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